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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO.       |
|--|-------------|----------------------|-------------------------------|------------------------|
| 10/686,842   | 10/16/2003  | Ronald M. Rockwell   | A2487-US-NP XERZ 2<br>01279   | 8491                   |
| 27885  | 7590        | 06/26/2007           |                               |                        |
| FAY SHARPE LLP<br>1100 SUPERIOR AVENUE, SEVENTH FLOOR<br>CLEVELAND, OH 44114 |             |                      | EXAMINER<br>POLLACK, MELVIN H |                        |
|  |             |                      | ART UNIT<br>2145              | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>06/26/2007       | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/686,842

Applicant(s)

ROCKWELL, RONALD M.

Examiner

Melvin H. Pollack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/20/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: see attached office action.

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it is too short to adequately describe the disclosure. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are mere software per se.
5. In addition, all of claims 1-38 lack a useful, concrete and tangible result. Most of the claims lack even a single functionality step, and are merely structural claims. For example, claims 1 and 2 are merely descriptions of a database. Claim 3 does have functionality, but no tangible result. The claims must be replaced or amended to provide functionality and tangible results.

***Claim Rejections - 35 USC § 112***

6. Claims 1-38 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility.

As shown above, the claims lack functionality, let alone a specific utility.

Claims 1-38 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 15 recites the limitation "the entity module" in claim 2. There is insufficient antecedent basis for this limitation in the claim. The examiner assumes the claimant means "said entity management module."

10. Claim 16 recites the limitation "the service consumer...module" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. The examiner assumes that the applicant means "said service customer interface," although several service modules are possible.

***Claim Objections***

11. Claim 14 is objected to because of the following informalities: serious typographical error. Appropriate correction is required. The phrase should be “module comprises authorization module” or “comprises an authorization module”.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Westerinen et al. (7,065,740).

14. Westernien teaches a method and system (abstract) of providing a remote platform for provisioning services (col. 1, line 1 – col. 4, line 5) wherein the model is based on a shared user service lifecycle (col. 4, lines 5-10) that interacts with service customers (col. 4, lines 35) and with developers (col. 4, lines 40 – col. 5, line 10), in a modular structure described in the claim. The system may be local or remote to the user (col. 7, lines 5-40), and includes an order processing module to perform translation and the handling of maintenance and upgrading, based on policy and entity managers (col. 7, line 40 – col. 11, line 3). A registration module performs a check on the identity (col. 11, lines 3-15), and other security features (col. 12, line 23). A service

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definitions module (col. 11, lines 15-40) assist in monitoring (col. 11, lines 40-55) and in the development, distribution and update of services (col. 12, lines 15-35).

15. Claims 1-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Sun Microsystems (EP 1 061 445 A2).

16. Sun teaches a method and system (abstract) of providing a provisioning server platform (Paras. 1-10) that performs protocol translation and fulfillment of requests and development steps (Paras. 11-14) of the structure described above (Paras. 15-16) to ensure that services pass from a provider to a customer (Paras. 17-21).

17. Claims 1-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Menzies et al. (6,317,748).

18. Menzies teaches a method and system (abstract) of remote service provisioning (col. 1, line 1 – col. 4, line 10; col. 4, lines 45-65) wherein a system performs protocol translation (col. 5, line 25 – col. 6, line 20) to fulfill customer requests and developer cycles (col. 6, lines 20-50) based on customer and developer information (col. 6, line 50 – col. 7, line 61).

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They regard further teachings on service provisioning and lifecycles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H. Pollack whose telephone number is (571) 272-3887.

The examiner can normally be reached on 8:00-4:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melvin H Pollack  
Examiner  
Art Unit 2145



MHP  
20 June 2007